

**REMARKS**

Original claims 1-17 are all the claims currently pending in this Application.

With this Office Action, the Examiner acknowledges Applicants' claim to foreign priority and the receipt of the certified copy of the priority document.

**35 U.S.C. § 101**

Claim 17 is rejected under 35 U.S.C. § 101 as allegedly non-statutory subject matter. The Examiner asserts that "In claim 17, a 'computer program' is being recited." However, Applicants respectfully submit that the Examiner is incorrect. Claim 17 clearly recites: "A storage medium that stores therein a computer program used to regulate an image, said computer program comprising: a module that, in response to specification of a degree of transparency and an arbitrary range of an image as a transparent range, sets a new degree of transparency for an image in the transparent range, based on a current setting of transparency for the image in the transparent range and the specified degree of transparency." Thus, claim 17 is clearly directed to functional descriptive material recorded on a computer-readable medium.

According to MPEP 2106.01, "'functional descriptive material' consists of data structures and computer programs which impart functionality when employed as a computer component." Claim 17 clearly recites "a computer program" which imparts functionality when employed as a computer component in that it is "used to regulate an image" and comprises "a module that, in response to specification of a degree of transparency and an arbitrary range of an image as a transparent range, sets a new degree of transparency for an image in the transparent range, based

on a current setting of transparency for the image in the transparent range and the specified degree of transparency.”

Additionally, according to MPEP 2106.01, “When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized.” Claim 17 clearly recites “A storage medium that stores therein” the functional descriptive material, as discussed above.

Therefore, Applicants submit that it is clear that claim 17 recites statutory subject matter under 35 U.S.C. § 101, and that the Examiner has failed to establish a *prima facie* case that claim 17 is non-statutory subject matter.

Applicants therefore respectfully request that the Examiner’s §101 rejection of claim 17 be reconsidered and withdrawn.

**35 U.S.C. § 102(e)**

Claims 1-17 are rejected under 35 U.S.C. § 102(e) as allegedly anticipated by Loveridge (U.S. Patent 7,068,853). Applicants note that neither the issue date (June 27, 2006), nor the publication date (March 27, 2003) of Loveridge is before July 10, 2002, which is one year prior to the earliest U.S. filing date (June 10, 2003) of the present Application. Therefore, Loveridge could only be available as prior art against the present Application under 35 U.S.C. § 102(a) or (e). Additionally, Applicants note that the priority date (July 11, 2002) of the present Application is prior to the earliest U.S. filing date (August 22, 2002) of Loveridge.

Therefore, without commenting on the merits of the Examiner's rejection, Applicants file herewith a certified translation of the priority document (JP 2002-202398) in order to perfect priority and swear behind Loveridge, removing it as a prior art reference against the present Application.

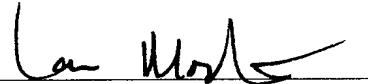
Therefore, Applicants respectfully request that the rejection of claims 1-17 under 35 U.S.C. § 102(e) be reconsidered and withdrawn.

**Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned attorney at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

  
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Laura Moskowitz  
Registration No. 55,470

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE:

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